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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNIVERSAL DYEING & PRINTING, INC., a California corporation ,)	Case No. CV 09-09132 DDP (VBKx)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S MOTION
)	FOR RECONSIDERATION OF COURT
v.)	ORDER GRANTING SUMMARY
)	ADJUDICATION
US TEXTILE PRINTING, INC.; ROSS STORES, INC.; UNO CLOTHING, INC.; CNC CLOTHING/ dba: CANDY RAIN,)	[Docket No. 190]
)	
Defendants.)	
)	
)	

Presently before the court is Plaintiff Universal Dyeing & Printing, Inc.'s Motion for Reconsideration of Court Order Granting Summary Adjudication ("Motion"). Having reviewed and considered the materials submitted by the parties, the court DENIES the Motion.

"[A] motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." Carroll

1 v. Nakatani, 342 F.3d 934, 945 (9th Cir. 2003). In addition,
2 Central District of California Local Rule 7-18 provides that:

3 A motion for reconsideration of the decision on any motion
4 may be made only on the grounds of (a) a material
5 difference in fact or law from that presented to the Court
6 before such decision that in the exercise of reasonable
7 diligence could not have been known to the party moving for
8 reconsideration at the time of such decision, or (b) the
9 emergence of new material facts or a change of law
10 occurring after the time of such decision, or (c) a
11 manifest showing of a failure to consider material facts
12 presented to the Court before such decision. No motion for
13 reconsideration shall in any manner repeat any oral or
14 written argument made in support of or in opposition to the
15 original motion.

16 Here, Plaintiff Universal Dyeing & Printing, Inc.
17 ("Universal") repeats its previously made arguments regarding
18 Defendants' alleged misconduct and discovery violations. (Compare
19 Mot. at 7-8, with Pl.'s Opp'n to Defs.' Mot. for Summ. J. at 12-14,
20 and Pl.'s Mot. for Summ. J. at 9-11.) The court therefore declines
21 to readdress these arguments, pursuant to Local Rule 7-18.

22 Universal also argues that the court ignored the record and
23 applied an incorrect legal standard as to direct evidence of
24 copying by Defendants. (Mot. at 3-8.) Universal seems to suggest
25 that an additional declaration provides new evidence of Defendants'
26 access and copying. (Mot. at 9-10.) It is doubtful that Universal
27 meets the reconsideration requirements of the Ninth Circuit and
28 Local Rules. Regardless, the court concludes that its September
13, 2011 Order was correct on the merits. As the court then
explained:

25 [E]ven if Plaintiff had offered admissible evidence in
26 support of its allegations of direct copying and access,
27 the court must still proceed to consider substantial
28 similarity. See Idema v. Dreamworks, Inc., 162 F. Supp. 2d
1129, 1175-78 (C.D. Cal. 2001) (proceeding to consider
"substantial similarity" in a copyright action where
defendants did not refute allegations of direct access and


1 copying). Without substantial similarity, there can be no
2 infringement. See Berkla v. Corel Corp., 66 F. Supp. 2d
3 1129, 1140-41 (E.D. Cal. 1999) (explaining that even if the
4 plaintiff in that case "did have evidence of direct copying
5 . . . he still remains unexcused from demonstrating the
6 requisite similarity").

7 (Order at 6.)

8 Further, the court concluded that "no reasonable person
9 could find that the two designs share substantial similarities
10 with the garments at issue." (Order at 9.) Accordingly, even
11 assuming that Universal had shown direct evidence of copying
12 and access, the analysis would be the same: Defendants would
13 still be entitled to summary judgment because the patterns at
14 issue are not substantially similar. Universal's Motion for
15 Reconsideration is therefore DENIED.

16 IT IS SO ORDERED.

17 Dated: November 21, 2011


DEAN D. PREGERSON
United States District Judge